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6	IN THE UNITED STATI	ES DISTRICT COURT					
7	FOR THE DISTRICT OF ARIZONA						
8							
9	United States of America,	NO. 17-01746MJ-001					
10	Plaintiff,	ORDER OF DETENTION PENDING TRIAL					
11	v.	INAL					
12	Sotero Ojeda-Velasco,						
13	Defendant.						
14							
15	In accordance with the Bail Reform Act, 18 U.S.C. § 3142(f), a detention hearing						
16	has been submitted. I conclude that the following facts are established:						
17	(Check one or both, as applicable.)						
18	by clear and convincing evidence the defendant is a danger to the community and						
19	require the detention of the defendant pending trial in this case.						
20	by a preponderance of the evidence	the defendant is a serious flight risk and					
21	require the detention of the defendant pending trial in this case.						
22	PART I FINDI	NGS OF FACT					
23	\Box (1) 18 U.S.C. § 3142(e)(2)(A): The	defendant has been convicted of a (federal					
24	offense)(state or local offense that would have been a federal offense if a circumstance						
25	giving rise to federal jurisdiction had existed) that is						
26	a crime of violence as defined in 18 U.S.C. § 3156(a)(4).						
27	an offense for which the maximum sentence is life imprisonment or death.						
28	an offense for which a maxim	um term of imprisonment of ten years or					
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1	more is prescribed in							
2	a felony that was committed after the defendant had been convicted of two							
3	or more prior federal offenses described in 18 U.S.C. § 3142(f)(1)(A)-(C), or							
4	comparable state or local offenses.							
5	any felony that involves a minor victim or that involves the possession or							
6	use of a firearm or destructive device (as those terms are defined in section 921),							
7	or any other dangerous weapon, or involves a failure to register under 18 U.S.C. §							
8	2250.							
9	\square (2) 18 U.S.C. § 3142(e)(2)(B): The offense described in finding 1 was							
10	committed while the defendant was on release pending trial for a federal, state or local							
11	offense.							
12	\square (3) 18 U.S.C. § 3142(e)(2)(C): A period of not more than five years has							
13	elapsed since the (date of conviction)(release of the defendant from imprisonment) for the							
14	offense described in finding 1.							
15	(4) Findings Nos. (1), (2) and (3) establish a rebuttable presumption that no							
16	condition or combination of conditions will reasonably assure the safety of (an)other							
۱7	person(s) and the community. I further find that the defendant has not rebutted this							
۱8	presumption.							
19	Alternative Findings							
20	\square (1) 18 U.S.C. § 3142(e)(3): There is probable cause to believe that the							
21	defendant has committed an offense							
22	for which a maximum term of imprisonment of ten years or more is							
23	prescribed in 1							
24	under 18 U.S.C. § 924(c), 956(a), or 2332(b).							
25	under 18 U.S.C. § 1581-1594, for which a maximum term of imprisonment							
26	of 20 years or more is prescribed.							
27 28	Insert as applicable: (a) Controlled Substances Act (21 U.S.C. § 801 et seq.); (b) Controlled Substances Import and Export Act (21 U.S.C. § 951 et seq.); or (c) Section 1 of Act of Sept. 15, 1980 (21 U.S.C. § 955a).							

1			an o	ffense	involvin	g a	minor	victim	under	section	18 U.S.C	. §
2				·		-		.2				
3		(2)	The d	lefenda	nt has no	t rebi	utted the	presum	ption e	stablished	by findin	ng 1
4	that no	o condi	tion o	r combi	ination of	cond	litions w	ill reaso	nably as	ssure the	appearanc	e of
5	the def	the defendant as required and the safety of the community.										
6					Al	terna	tive Fin	dings				
7		(1)	There	is a	serious r	isk tl	nat the	defenda	nt will	flee; no	condition	or
8	combin	nation	of cor	nditions	will rea	sonat	oly assu	re the ap	pearan	ce of the	defendan	t as
9	require	d.										
10		(2)	No co	ndition	or combi	natio	n of con	ditions w	ill reaso	onably ass	sure the sa	fety
11	of othe	rs and	the co	mmunit	y.							
12		(3)	There	is a s	erious ri	sk th	at the d	lefendant	t will (obstruct	or attempt	t to
13	obstruc	t justic	e) (thi	reaten, i	njure, or	intim	idate a p	rospectiv	ve witne	ss or juro	r).	
14		(4)										
15		ADTI	T XX					DELGG	NA EO			
16	r	AKII	11 VV	KIIII	(Check of	e or	both, as	applicab)NS FO ple.)	R DETE	NTION	
17		(1)	I find	that the	credible	testir	nony an	d inform	ation ³ s	ubmitted	at the hear	ring
18	establis	shes by	clear	and cor	vincing e	vider	ice as to	danger t	hat:			
19				*****						***		_
20	#	(2)	I find	that a p	repondera	ince c	of the evi	idence as	to risk	of flight t	hat:	
21	,		The de	efendan	t is not a	citize	n of the	United S	tates.			
22		\\	The de	efendan	t, at the t	ime o	f the ch	arged of	fense, w	as in the	United Sta	ates
23	:	illegall:	y.									
24		\	If rele	eased h	erein, the	e def	endant	faces de	portatio	n procee	dings by	the
25		<u> </u>										
26	2050()	Insert	as appl	licable 1	8 U.S.C. §	§1201	, 1591, 2	241, 2242	2, 2244(a)(1), 2245,	2251, 2251	(a),
27	2232(a)(² Insert as applicable 18 U.S.C. §§1201, 1591, 2241, 2242, 2244(a)(1), 2245, 2251, 2251(a), 2252(a)(1), 2252(a)(2), 2252(a)(3), 2252(a)(4), 2260, 2421, 2422, 2423, or 2425. ³ The rules concerning admissibility of evidence in criminal trials do not apply to the presentation										
28	and cons	sideratioi	n of int	ormation	at the dete	y of evention	idence in hearing.	criminal to 18 U.S.C.	rials do n § 3142(f)	ot apply to See 18 U	the presenta I.S.C. § 3142	tion 2(g)

1	Bureau of Immigration and Customs Enforcement, placing him/her beyond th						
2	jurisdiction of this Court.						
3	The defendant has no significant contacts in the United States or in the						
4	District of Arizona.						
5	The defendant has no resources in the United States from which he/sh						
6	might make a bond reasonably calculated to assure his/her future appearance.						
7	☐ The defendant has a prior criminal history.						
8	The defendant lives and works in Mexico.						
9	The defendant is an amnesty applicant but has no substantial ties in Arizon						
10	or in the United States and has substantial family ties to Mexico.						
11	There is a record of prior failure to comply with court order.						
12	The defendant attempted to evade law enforcement contact by fleeing from						
13	law enforcement.						
14	☐ The defendant is facing a minimum mandatory of						
15	incarceration and a maximum of						
16	The defendant does not dispute the information contained in the Pretrial Service						
17	Report, except:						
18							
19	☐ In addition:						
20							
21	The Court incorporates by reference the findings of the Pretrial Services Agency						
22	which were reviewed by the Court at the time of the hearing in this matter.						
23							

PART III -- DIRECTIONS REGARDING DETENTION

The defendant is committed to the custody of the Attorney General or his/her designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation

with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

PART IV -- APPEALS AND THIRD PARTY RELEASE

IT IS ORDERED that should an appeal of this detention order be filed with the District Court, it is counsel's responsibility to deliver a copy of the motion for review/reconsideration to Pretrial Services at least one day prior to the hearing set before the District Court. Pursuant to Rule 59(a), FED.R.CRIM.P., effective December 1, 2009, Defendant shall have fourteen (14) days from the date of service of a copy of this order or after the oral order is stated on the record within which to file specific written objections with the district court. Failure to timely file objections in accordance with Rule 59(a) may waive the right to review. 59(a), FED.R.CRIM.P.

IT IS FURTHER ORDERED that if a release to a third party is to be considered, it is counsel's responsibility to notify Pretrial Services sufficiently in advance of the hearing before the District Court to allow Pretrial Services an opportunity to interview and investigate the potential third party custodian.

DATE: 9/21/2017

James F. Metcalf United States Magistrate Judge